



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

August 7, 1968

Honorable Robert S. Calvert
Comptroller of Public Accounts
State Capitol Building
Austin, Texas 78711

Opinion No. M-266

Re: Whether the Governor may authorize the expenditure of federal grants or allocations to the Parks and Wildlife Department for construction of a residence facility at the Huntsville State Fish Hatchery.

Dear Mr. Calvert:

Your request for an opinion reads as follows:

"Your opinion is requested in the matter of an addition to the appropriations made by the 60th Legislature R.S. in S.B. 15 for the Parks and Wildlife Department.

STATEMENT OF FACTS

"1. Parks and Wildlife Department letter of June 19, 1968 to the Governor recited that on May 19, 1968, lightning struck the State-owned residence in which the Huntsville State Fish Hatchery Superintendent resided and the resulting fire ravaged the house beyond repair.

"This letter requested the Governor to authorize expenditure of \$25,000 to replace the destroyed structure.

"2. The request for the \$25,000 was made as an addition to the amount appropriated Items 14B of SB 15, of the 60th Legislature R.S., Page 106 of Supplement to Senate Journal, citing the first rider paragraph on Page 109 of the supplement which reads as follows:

"Any Federal grants, allocations or aids for the conservation and improvement of game, fish and wildlife, or for improving, developing and planning public parks, or for any other program or activity under the statutory authority of the Parks and Wildlife Department, may be accepted and disbursed through the State Treasury by said Department for the purposes for which they were granted and are hereby appropriated for such purposes; provided, however, that expenditure of any such Federal grants, allocations, or aids shall not exceed the amounts shown in the schedule of appropriations hereinabove, or for purposes and programs not authorized by said schedule of appropriations, shall have the prior written approval of the Governor."

"3. The Governor approved the expenditure of Federal funds presumed to be available in the amount and for the purpose requested by Parks and Wildlife Department in his letter of June 10, 1968, to the Comptroller.

"4. On June 14, 1968, the Comptroller requested by letter that Parks and Wildlife furnish written evidence that Federal funds were so authorized.

"5. Parks and Wildlife by letter dated June 19, 1968, stated Federal funds were deposited on February 15, 1968, and such funds were received in accordance with Article 4050d, V.A.C.S. This letter also cites Sec. 25, Art. V, of S.B. 15, 60th Legislature R.S. as additional authority.

"6. It does not appear that a departmental construction has been made under these exact conditions. Therefore we request an opinion on the following question:

"Does the Governor have the authority to increase the amount of the appropriations under the rider cited in Number 2 above?

"For your convenience we are enclosing photostat copies of the correspondence listed in the Statement of Facts."

In Senate Bill 15, 60th Legislature, 1967, Regular Session, the General Appropriations Bill, in the departmental appropriation to the Parks and Wildlife Department, is found a rider which states as follows:

"Any Federal grants, allocations or aids for the conservation and improvement of game, fish and wildlife, or for improving, developing and planning public parks, or for any other program or activity under the statutory authority of the Parks and Wildlife Department, may be accepted and disbursed through the State Treasury by said Department for the purposes for which they were granted and are hereby appropriated for such purposes; provided, however, that expenditure of any such Federal grants, allocations, or aids shall not exceed the amounts shown in the schedule of appropriations hereinabove, or for purposes and programs not authorized by said schedule of appropriations, shall have the prior written approval of the Governor." (Emphasis added.)

The foregoing provision of the General Appropriations Bill appropriates to the Parks and Wildlife Department all federal grants or allocations of money for the purposes for which they were given to the Parks and Wildlife Department by the Federal Government. However, such appropriation contains certain restrictions upon the expenditure of these funds by the Parks and Wildlife Department. These restrictions are to the effect that the expenditure of federal grants or allocations shall not exceed the amount shown in the departmental appropriation to the Parks and Wildlife Department or be for a purpose not authorized in the departmental appropriation to the Parks and Wildlife Department. In addition, such expenditures must have the prior written approval of the Governor.

In Section 25 of Article V of Senate Bill 15, the General Appropriations Bill, there is also found the provision that:

"Any funds received by the agencies of the State named in this Act from the United States Government are hereby appropriated to such agencies for the purposes for which the Federal grant, allocation, aid, or payment was made, subject to the provisions of this Act. Within thirty (30) days after the receipt of any such Federal grants, allocations, aid or payments, the amounts thereof and the purposes for which they were made shall be reported to the Governor and the Legislative Budget Board." (Emphasis added.)

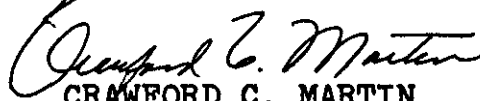
In the instant case, the Governor has given his prior written approval for the expenditure of \$25,000.00 in federal grants or allocations for the restoration of certain residence facilities at the Huntsville State Fish Hatchery. Item 14-B of the departmental appropriation to the Parks and Wildlife Department discloses that the expenditure contemplated by your question is one authorized by the departmental appropriation to the Parks and Wildlife Department and the amount of federal funds authorized to be expended by the Governor from federal grants and allocations to the Parks and Wildlife Department does not exceed the amount appropriated in Line Item 14-B.

In view of the foregoing we are of the opinion that the Governor may authorize the expenditure of \$25,000.00 for construction of a residence facility at the Huntsville State Fish Hatchery. Such authorization does not constitute an increase in the amount of the appropriation, but merely authorizes the expenditure of funds already appropriated by the Legislature.

S U M M A R Y

The Governor may authorize the expenditure of federal grants or allocations to the Parks and Wildlife Department for construction of a residence facility at the Huntsville State Fish Hatchery. Such authorization does not constitute an increase in the amount of the appropriation, but merely authorizes the expenditure of funds already appropriated by the Legislature.

Very truly yours,


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